

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**BENNY JAMES CROSBY,**  
**Petitioner**

**V.**

**WARDEN JAMES VESHECCO, et al.,  
Respondents.**

**C.A. No. 05-94 Erie**

**District Judge McLaughlin**  
**Magistrate Judge Baxter**

## RULE AND ORDER

AND NOW, this 1st day of August, 2005, after Benny James Crosby presented a petition for a writ of habeas corpus,

IT IS ORDERED that the United States Marshal shall make service of this order, together with a copy of the petition, upon the Respondent, the District Attorney of Erie County, and the Attorney General of the Commonwealth of Pennsylvania.

IT IS FURTHER ORDERED that within twenty days of service of this order, the respondent, and the District Attorney of Erie County, Pennsylvania shall respond to the allegations of the petition for writ of habeas corpus. The District Attorney shall address all of the following 1) the statute of limitations, 28 U.S.C. § 2254(d)(1)-(2); 2) the exhaustion of state court remedies as required by 28 U.S.C. §§ 2254(b) and Picard v. Connor, 404 U.S. 270 (1971); Rose v. Lundy, 455 U.S. 509 (1982); United States ex. rel. Trantino v. Hatrack, 563 F.2d 86 (3d Cir. 1977); Zicarelli v. Gray, 543 F.2d 466 (3d Cir. 1976), with respect to each claim raised by the Petitioner and, if appropriate, whether any of the claims were procedurally defaulted, and 3) the merits of the petition. The answer shall comply with Rule 5 of the Rules Governing Section 2254 cases in the United States District Courts. The District Attorney shall furnish this court with the state court records, including all transcripts, all briefs filed by the Petitioner, and all written opinions of the state courts/agencies as well as certified copies of the docket sheets of all the state courts/agencies involved.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief U.S. Magistrate Judge

cc: Benny James Crosby # 5719  
Erie County Prison  
1618 Ash Street  
Erie, PA 16503

James Veshecco, Warden  
District Attorney of Erie County  
Attorney General of Pennsylvania